



General Assembly

Substitute Bill No. 403

February Session, 2010

* ____SB00403PH____032510____ *

AN ACT CONCERNING HEALTH INFORMATION TECHNOLOGY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-25h of the 2010 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective from passage*):

4 [(a) There is established a health information technology and
5 exchange advisory committee. The committee shall consist of twelve
6 members as follows: The Lieutenant Governor; three appointed by the
7 Governor, one of whom shall be a representative of a medical research
8 organization, one of whom shall be an insurer or representative of a
9 health plan, and one of whom shall be an attorney with background
10 and experience in the field of privacy, health data security or patient
11 rights; two appointed by the president pro tempore of the Senate, one
12 of whom shall have background and experience with a private sector
13 health information exchange or health information technology entity,
14 and one of whom shall have expertise in public health; two appointed
15 by the speaker of the House of Representatives, one of whom shall be a
16 representative of hospitals, an integrated delivery network or a
17 hospital association, and one of whom who shall have expertise with
18 federally qualified health centers; one appointed by the majority leader
19 of the Senate, who shall be a primary care physician whose practice
20 utilizes electronic health records; one appointed by the majority leader

21 of the House of Representatives, who shall be a consumer or consumer
22 advocate; one appointed by the minority leader of the Senate, who
23 shall have background and experience as a pharmacist or other health
24 care provider that utilizes electronic health information exchange; and
25 one appointed by the minority leader of the House of Representatives,
26 who shall be a large employer or a representative of a business group.
27 The Commissioners of Public Health, Social Services, Consumer
28 Protection and the Office of Health Care Access, the Chief Information
29 Officer, the Secretary of the Office of Policy and Management and the
30 Healthcare Advocate, or their designees, shall be ex-officio, nonvoting
31 members of the committee.

32 (b) All initial appointments to the committee shall be made on or
33 before October 1, 2009. The initial term for the committee members
34 appointed by the Governor shall be for four years. The initial term for
35 committee members appointed by the speaker of the House of
36 Representatives and the majority leader of the House of
37 Representatives shall be for three years. The initial term for committee
38 members appointed by the minority leader of the House of
39 Representatives and the minority leader of the Senate shall be for two
40 years. The initial term for the committee members appointed by the
41 president pro tempore of the Senate and the majority leader of the
42 Senate shall be for one year. Terms shall expire on September thirtieth
43 in accordance with the provisions of this subsection. Any vacancy shall
44 be filled by the appointing authority for the balance of the unexpired
45 term. Other than an initial term, a committee member shall serve for a
46 term of four years. No committee member, including initial committee
47 member may serve for more than two terms. Any member of the
48 committee may be removed by the appropriate appointing authority
49 for misfeasance, malfeasance or wilful neglect of duty.

50 (c) The committee shall select a chairperson from its membership
51 and the chairperson shall schedule the first meeting of the committee,
52 which shall be held no later than November 1, 2009.

53 (d) Any member appointed to the committee who fails to attend

54 three consecutive meetings or who fails to attend fifty per cent of all
55 meetings held during any calendar year shall be deemed to have
56 resigned from the committee.

57 (e) Notwithstanding any provision of the general statutes, it shall
58 not constitute a conflict of interest for a trustee, director, partner,
59 officer, stockholder, proprietor, counsel or employee of any eligible
60 institution, or for any other individual with a financial interest in an
61 eligible institution, to serve as a member of the committee. All
62 members shall be deemed public officials and shall adhere to the code
63 of ethics for public officials set forth in chapter 10. Members may
64 participate in the affairs of the committee with respect to the review or
65 consideration of grant-in-aid applications, including the approval or
66 disapproval of such applications, except that no member shall
67 participate in the affairs of the committee with respect to the review or
68 consideration of any grant-in-aid application filed by such member or
69 by an eligible institution in which such member has a financial interest,
70 or with whom such member engages in any business, employment,
71 transaction or professional activity.

72 (f) The health information technology and exchange advisory
73 committee shall advise the Commissioner of Public Health regarding
74 implementation of the health information technology plan. The
75 committee shall develop, in consultation with the Commissioner of
76 Public Health, (1) appropriate protocols for health information
77 exchange, and (2) electronic data standards to facilitate the
78 development of a state-wide, integrated electronic health information
79 system, as defined in subsection (a) of section 19a-25d, for use by
80 health care providers and institutions that are funded by the state.
81 Such electronic data standards shall (A) include provisions relating to
82 security, privacy, data content, structures and format, vocabulary, and
83 transmission protocols, with such privacy standards consistent with
84 the requirements of section 19a-25g, (B) be compatible with any
85 national data standards in order to allow for interstate interoperability,
86 as defined in subsection (a) of section 19a-25d, (C) permit the collection

87 of health information in a standard electronic format, as defined in
88 subsection (a) of section 19a-25d, and (D) be compatible with the
89 requirements for an electronic health information system, as defined in
90 subsection (a) of section 19a-25d.

91 (g) The health information technology and exchange advisory
92 committee shall examine and identify specific ways to improve and
93 promote health information exchange in the state, including, but not
94 limited to, identifying both public and private funding sources for
95 health information technology. On and after November 1, 2009, the
96 Commissioner of Public Health shall submit any proposed application
97 for private or federal funds that are to be used for the development of
98 health information exchange to the committee. Not later than twenty
99 days after the date the committee receives such proposed application
100 for private or federal funds, the committee shall advise the
101 commissioner, in writing, of any comments or recommended changes,
102 if any, that the committee believes should be made to such application.
103 Such comments and recommended changes shall be taken into
104 consideration by the commissioner in making any decisions regarding
105 the grants. In addition, the committee shall advise the commissioner
106 regarding the development and implementation of a health
107 information technology grant program which may, within available
108 funds, provide grants-in-aid to eligible institutions for the
109 advancement of health information exchange and health information
110 technology in this state. The commissioner shall offer at least one
111 member of the committee the opportunity to participate on any review
112 panel constituted to effectuate the provisions of this subsection.

113 (h) The Department of Public Health shall, within available funds,
114 provide administrative support to the committee and shall assist the
115 committee in all tasks, including, but not limited to, (1) developing the
116 application for the grants-in-aid authorized under subsection (g) of
117 this section, (2) reviewing such applications, (3) preparing and
118 executing any assistance agreements or other agreements in connection
119 with the awarding of such grants-in-aid, and (4) performing such other

120 administrative duties as the committee deems necessary. For purposes
121 of this subsection, the Commissioner of Public Health may, within
122 available funds, contract for administrative support for the committee
123 pursuant to section 4a-7a.

124 (i) Not later than February 1, 2010, and annually thereafter until
125 February 1, 2015, the Commissioner of Public Health and the health
126 information technology and exchange advisory committee shall report,
127 in accordance with section 11-4a, to the Governor and the General
128 Assembly on (1) any private or federal funds received during the
129 preceding quarter and, if applicable, how such funds were expended,
130 (2) the amount of grants-in-aid awarded to eligible institutions, (3) the
131 recipients of such grants-in-aid, and (4) the current status of health
132 information exchange and health information technology in the state.

133 (j) For purposes of this section, "eligible institution" means a
134 hospital, clinic, physician or other health care provider, laboratory or
135 public health agency that utilizes health information exchange or
136 health information technology.]

137 (a) There is hereby created as a body politic and corporate,
138 constituting a public instrumentality and political subdivision of the
139 state created for the performance of an essential public and
140 governmental function, the Connecticut e-Health Authority, which is
141 empowered to carry out the purposes of the authority, as defined in
142 subsection (b) of this section, which are hereby determined to be public
143 purposes for which public funds may be expended. The Connecticut e-
144 Health Authority shall not be construed to be a department, institution
145 or agency of the state.

146 (b) For purposes of this section, "purposes of the authority" means
147 the purposes of the authority expressed in and pursuant to this section,
148 including with respect to the promotion, planning and designing,
149 developing, assisting, acquiring, constructing, maintaining and
150 equipping, reconstructing and improving health care information
151 technology.

152 (c) (1) The Connecticut e-Health Authority shall be managed by a
153 board of directors. The board shall consist of the following members:
154 The Lieutenant Governor; the Commissioner of Public Health; three
155 appointed by the Governor, one of whom shall be a representative of a
156 medical research organization, one of whom shall be an insurer or
157 representative of a health plan and one of whom shall be an attorney
158 with background and experience in the field of privacy, health data
159 security or patient rights; two appointed by the president pro tempore
160 of the Senate, one of whom shall have background and experience
161 with a private sector health information exchange or health
162 information technology entity and one of whom shall have expertise in
163 public health; two appointed by the speaker of the House of
164 Representatives, one of whom shall be a representative of hospitals, an
165 integrated delivery network or a hospital association and one of whom
166 who shall have expertise with federally qualified health centers; one
167 appointed by the majority leader of the Senate, who shall be a primary
168 care physician whose practice utilizes electronic health records; one
169 appointed by the majority leader of the House of Representatives, who
170 shall be a consumer or consumer advocate; one appointed by the
171 minority leader of the Senate, who shall have background and
172 experience as a pharmacist or other health care provider that utilizes
173 electronic health information exchange; and one appointed by the
174 minority leader of the House of Representatives, who shall be a large
175 employer or a representative of a business group. The Commissioners
176 of Social Services and Consumer Protection, the Chief Information
177 Officer of the Department of Information Technology, the Secretary of
178 the Office of Policy and Management and the Healthcare Advocate, or
179 their designees, shall be ex-officio, nonvoting members of the board.
180 The Commissioner of Public Health shall serve as the chairperson of
181 the board.

182 (2) All initial appointments to the board shall be made on or before
183 October 1, 2010. The initial term for the board members appointed by
184 the Governor shall be for four years. The initial term for board
185 members appointed by the speaker of the House of Representatives

186 and the majority leader of the House of Representatives shall be for
187 three years. The initial term for board members appointed by the
188 minority leader of the House of Representatives and the minority
189 leader of the Senate shall be for two years. The initial term for the
190 board members appointed by the president pro tempore of the Senate
191 and the majority leader of the Senate shall be for one year. Terms shall
192 expire on September thirtieth of each year in accordance with the
193 provisions of this subsection. Any vacancy shall be filled by the
194 appointing authority for the balance of the unexpired term. Other than
195 an initial term, a board member shall serve for a term of four years. No
196 board member, including initial board members, may serve for more
197 than two terms. Any member of the board may be removed by the
198 appropriate appointing authority for misfeasance, malfeasance or
199 wilful neglect of duty.

200 (3) The chairperson shall schedule the first meeting of the board,
201 which shall be held not later than November 1, 2010.

202 (4) Any member appointed to the board who fails to attend three
203 consecutive meetings or who fails to attend fifty per cent of all
204 meetings held during any calendar year shall be deemed to have
205 resigned from the board.

206 (5) Notwithstanding any provision of the general statutes, it shall
207 not constitute a conflict of interest for a trustee, director, partner,
208 officer, stockholder, proprietor, counsel or employee of any person,
209 firm or corporation to serve as a board member, provided such trustee,
210 director, partner, officer, stockholder, proprietor, counsel or employee
211 shall abstain from deliberation, action or vote by the board in specific
212 respect to such person, firm or corporation. All members shall be
213 deemed public officials and shall adhere to the code of ethics for public
214 officials set forth in chapter 10.

215 (6) Board members shall receive no compensation for their services,
216 but shall receive actual and necessary expenses incurred in the
217 performance of their official duties.

218 (d) The board shall select and employ a chief executive officer who
219 shall be responsible for administering the authority's programs and
220 activities in accordance with policies and objectives established by the
221 board.

222 (e) The board shall direct the authority regarding: (1)
223 Implementation and periodic revisions of the health information
224 technology plan submitted in accordance with the provisions of
225 section 74 of public act 09-232, including the implementation of an
226 integrated state-wide electronic health information infrastructure for
227 the sharing of electronic health information among health care
228 facilities, health care professionals, public and private payors, state and
229 federal agencies and patients; (2) appropriate protocols for health
230 information exchange; and (3) electronic data standards to facilitate the
231 development of a state-wide, integrated electronic health information
232 system, as defined in subsection (a) of section 19a-25d, for use by
233 health care providers and institutions that receive state funding. Such
234 electronic data standards shall: (A) Include provisions relating to
235 security, privacy, data content, structures and format, vocabulary and
236 transmission protocols; (B) limit the use and dissemination of an
237 individual's Social Security number and require the encryption of any
238 Social Security number provided by an individual; (C) require privacy
239 standards no less stringent than the "Standards for Privacy of
240 Individually Identifiable Health Information" established under the
241 Health Insurance Portability and Accountability Act of 1996, P.L. 104-
242 191, as amended from time to time, and contained in 45 CFR 160, 164;
243 (D) require that individually identifiable health information be secure
244 and that access to such information be traceable by an electronic audit
245 trail; (E) be compatible with any national data standards in order to
246 allow for interstate interoperability, as defined in subsection (a) of
247 section 19a-25d; (F) permit the collection of health information in a
248 standard electronic format, as defined in subsection (a) of section 19a-
249 25d; and (G) be compatible with the requirements for an electronic
250 health information system, as defined in subsection (a) of section 19a-
251 25d.

252 (f) Applications for grants from the authority shall be made on a
253 form prescribed by the board. The board shall review applications and
254 decide whether to award a grant. The board may consider, as a
255 condition for awarding a grant, the potential grantee's financial
256 participation and any other factors it deems relevant.

257 (g) The board may consult with such parties, public or private, as it
258 deems desirable in exercising its duties under this section.

259 (h) Not later than February 1, 2011, and annually thereafter until
260 February 1, 2016, the chief executive officer of the authority shall
261 report, in accordance with section 11-4a, to the Governor and the
262 General Assembly on (1) any private or federal funds received during
263 the preceding year and, if applicable, how such funds were expended,
264 (2) the amount and recipients of grants awarded, and (3) the current
265 status of health information exchange and health information
266 technology in the state.

267 Sec. 2. Section 19a-25g of the 2010 supplement to the general statutes
268 is repealed and the following is substituted in lieu thereof (*Effective*
269 *from passage*):

270 (a) [On and after July 1, 2009, the] The Department of Public Health
271 shall be the lead health information exchange organization for the state
272 from July 1, 2009, to December 31, 2010, inclusive. The department
273 shall seek private and federal funds, including funds made available
274 pursuant to the federal American Recovery and Reinvestment Act of
275 2009, for the initial development of a state-wide health information
276 exchange. [Any private or federal funds received by the department
277 may be used for the purpose of establishing health information
278 technology pilot programs and the grant programs described in
279 section 19a-25h.]

280 (b) On and after January 1, 2011, the Connecticut e-Health
281 Authority, established pursuant to the provisions of section 19a-25h, as
282 amended by this act, shall be the lead health information organization

283 for the state. The authority shall continue to seek private and federal
284 funds for the initial development of a state-wide health information
285 exchange. The Department of Public Health may contract with the
286 authority to transfer unexpended federal funds received by the
287 department pursuant to the federal American Recovery and
288 Reinvestment Act of 2009, P.L. 111-05, if any, for the initial
289 development of a state-wide health information exchange. The
290 authority shall, within available resources, provide grants for the
291 advancement of health information technology and exchange in this
292 state, pursuant to subsection (f) of section 19a-25h, as amended by this
293 act.

294 [(b)] (c) The department shall [: (1) Facilitate] facilitate the
295 implementation and periodic revisions of the health information
296 technology plan after the plan is initially submitted in accordance with
297 the provisions of section 74 of public act 09-232, including the
298 implementation of an integrated state-wide electronic health
299 information infrastructure for the sharing of electronic health
300 information among health care facilities, health care professionals,
301 public and private payors, state and federal agencies and patients [,
302 and (2) develop standards and protocols for privacy in the sharing of
303 electronic health information. Such standards and protocols shall be no
304 less stringent than the "Standards for Privacy of Individually
305 Identifiable Health Information" established under the Health
306 Insurance Portability and Accountability Act of 1996, P.L. 104-191, as
307 amended from time to time, and contained in 45 CFR 160, 164. Such
308 standards and protocols shall require that individually identifiable
309 health information be secure and that access to such information be
310 traceable by an electronic audit trail] until December 31, 2010. On and
311 after January 1, 2011, the Connecticut e-Health Authority shall be
312 responsible for the implementation and periodic revisions of the health
313 information technology plan.

314 Sec. 3. Section 1-124 of the general statutes is repealed and the
315 following is substituted in lieu thereof (*Effective from passage*):

316 (a) The Connecticut Development Authority, the Connecticut
317 Health and Educational Facilities Authority, the Connecticut Higher
318 Education Supplemental Loan Authority, the Connecticut Housing
319 Finance Authority, the Connecticut Housing Authority, the
320 Connecticut Resources Recovery Authority, the Connecticut e-Health
321 Authority and the Capital City Economic Development Authority shall
322 not borrow any money or issue any bonds or notes which are
323 guaranteed by the state of Connecticut or for which there is a capital
324 reserve fund of any kind which is in any way contributed to or
325 guaranteed by the state of Connecticut until and unless such
326 borrowing or issuance is approved by the State Treasurer or the
327 Deputy State Treasurer appointed pursuant to section 3-12. The
328 approval of the State Treasurer or said deputy shall be based on
329 documentation provided by the authority that it has sufficient
330 revenues to (1) pay the principal of and interest on the bonds and notes
331 issued, (2) establish, increase and maintain any reserves deemed by the
332 authority to be advisable to secure the payment of the principal of and
333 interest on such bonds and notes, (3) pay the cost of maintaining,
334 servicing and properly insuring the purpose for which the proceeds of
335 the bonds and notes have been issued, if applicable, and (4) pay such
336 other costs as may be required.

337 (b) To the extent the Connecticut Development Authority,
338 Connecticut Innovations, Incorporated, Connecticut Higher Education
339 Supplemental Loan Authority, Connecticut Housing Finance
340 Authority, Connecticut Housing Authority, Connecticut Resources
341 Recovery Authority, Connecticut Health and Educational Facilities
342 Authority, the Connecticut e-Health Authority or the Capital City
343 Economic Development Authority is permitted by statute and
344 determines to exercise any power to moderate interest rate fluctuations
345 or enter into any investment or program of investment or contract
346 respecting interest rates, currency, cash flow or other similar
347 agreement, including, but not limited to, interest rate or currency swap
348 agreements, the effect of which is to subject a capital reserve fund
349 which is in any way contributed to or guaranteed by the state of

350 Connecticut, to potential liability, such determination shall not be
351 effective until and unless the State Treasurer or his or her deputy
352 appointed pursuant to section 3-12 has approved such agreement or
353 agreements. The approval of the State Treasurer or his or her deputy
354 shall be based on documentation provided by the authority that it has
355 sufficient revenues to meet the financial obligations associated with the
356 agreement or agreements.

357 Sec. 4. Section 1-125 of the general statutes is repealed and the
358 following is substituted in lieu thereof (*Effective from passage*):

359 The directors, officers and employees of the Connecticut
360 Development Authority, Connecticut Innovations, Incorporated,
361 Connecticut Higher Education Supplemental Loan Authority,
362 Connecticut Housing Finance Authority, Connecticut Housing
363 Authority, Connecticut Resources Recovery Authority, including ad
364 hoc members of the Connecticut Resources Recovery Authority,
365 Connecticut Health and Educational Facilities Authority, Capital City
366 Economic Development Authority, the Connecticut e-Health Authority
367 and Connecticut Lottery Corporation and any person executing the
368 bonds or notes of the agency shall not be liable personally on such
369 bonds or notes or be subject to any personal liability or accountability
370 by reason of the issuance thereof, nor shall any director or employee of
371 the agency, including ad hoc members of the Connecticut Resources
372 Recovery Authority, be personally liable for damage or injury, not
373 wanton, reckless, wilful or malicious, caused in the performance of his
374 or her duties and within the scope of his or her employment or
375 appointment as such director, officer or employee, including ad hoc
376 members of the Connecticut Resources Recovery Authority. The
377 agency shall protect, save harmless and indemnify its directors,
378 officers or employees, including ad hoc members of the Connecticut
379 Resources Recovery Authority, from financial loss and expense,
380 including legal fees and costs, if any, arising out of any claim, demand,
381 suit or judgment by reason of alleged negligence or alleged
382 deprivation of any person's civil rights or any other act or omission

383 resulting in damage or injury, if the director, officer or employee,
384 including ad hoc members of the Connecticut Resources Recovery
385 Authority, is found to have been acting in the discharge of his or her
386 duties or within the scope of his or her employment and such act or
387 omission is found not to have been wanton, reckless, wilful or
388 malicious.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	19a-25h
Sec. 2	<i>from passage</i>	19a-25g
Sec. 3	<i>from passage</i>	1-124
Sec. 4	<i>from passage</i>	1-125

PH *Joint Favorable Subst.*